



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

August 5, 2013

Operations Division
Regulatory Branch

**SUBJECT: Spanish Lake Restoration (formerly Lago Espanol Wetland Mitigation Bank)
Transfer of sold credits**

Spanish Lake Restoration, LLC
7478 Highland Road
Baton Rouge, Louisiana 70808

Dear Mr. Nesbit:

We have reviewed the information provided by letter dated April 24, 2013, regarding the potential inability of the Spanish Lake Restoration mitigation bank to achieve the long-term success criteria identified in the Interagency Agreement on portions of the mitigation bank. Intensive monitoring performed on the bank during 2010 and 2011 suggests that residual salt concentrations in the soil limits target species survivorship in Bank I, Unit V and portions of Unit IV. The source of the salt is believed to be from historic oil and gas activities on the property. This information had previously been provided by you and discussed by CEMVN with the Interagency Review Team members during the fall/winter of 2012 and again with the referenced submission.

Vegetative restoration attempts on the acreage comprising Bank I had very low success rates. No credits associated with the restoration attempts were released. At the Sponsor's request, Bank I was eliminated as an active component of the mitigation bank. Therefore, nothing more need be done to remain in compliance with the terms of the Interagency Agreement for acreage encompassed by Bank I.

Based on information provided in early monitoring reports, enhancement efforts on Units IV and V appeared to be successful. However, the information obtained during the 2010/2011 monitoring suggests otherwise. The standards as identified in the Interagency Agreement do not appear attainable for the 30.56 acres comprising Unit V and 81.44 acres of Unit IV. The proposed resolution as presented for 112 acres of the mitigation bank suggests that the sold mitigation credits be debited from other portions of the existing mitigation bank which have available credits. The proposal suggests debiting and closing Unit VII via a 1:1 debit ratio for 72 acres and the other 40 acres would be debited at a 2:1 ratio from remaining credits in the Unit I. CEMVN does not object to your suggestion regarding transfer of credits and the ledgers will be updated to reflect this resolution. All credits associated with Unit VII totaling 72 acres will be debited and the Unit closed. Eighty (80) acres of credit associated with preservation of Unit I will be debited from the current ledgers. The subject 'damaged' acreage of Bank 1, Units IV and V does not need to attain the performance standards/success criteria

identified in the Interagency Agreement; however, the conservation servitude on the property remains effective.

If we can be of further assistance regarding this matter, please contact Brian W. Breaux at (504) 862-1938 or brian.w.breaux@usace.army.mil.

Sincerely,

A handwritten signature in black ink that reads "Martin S. Mayer". The signature is written in a cursive style with a large, stylized "M" and "S".

Martin S. Mayer
Chief, Regulatory Branch

Copy furnished via electronic mail:

U.S. Fish and Wildlife Service
Mrs. Patti Holland
646 Cajundome Boulevard
Suite 400
Lafayette, LA 70506

U.S. Environmental Protection Agency
Federal Activities Branch (6WQ-EM)
Mr. Raul Gutierrez
1445 Ross Avenue
Dallas, TX 75202

LA Department of Wildlife and Fisheries
Ecological Studies Section
Mr. Kyle Balkum
Post Office Box 98000
Baton Rouge, LA 70898-9000



SPANISH LAKE RESTORATION, LLC

7478 Highland Rd., Baton Rouge, Louisiana 70808
Phone: 225.928.5333 Fax: 225.246.8319

April 24, 2013

Department of the Army
Corps of Engineers, New Orleans District
Attn: Mr. Brian Breaux
Senior Project Manager
Special Projects
Subject: Spanish Lake Restoration, LLC

Mr. Breaux,

By this letter, Spanish Lake Restoration LLC, (SLR) formally requests the transfer of 112 acres of sold enhancement credits from Units IV and V to 152 acres of available credits in Units I and VII by the US Army Corps of Engineers (USACE). The need to transfer is based on the documented inability to meet the requisite performance standards established in SLR's Mitigation Banking Instrument (MBI) within the 112 acres of Units IV and V.

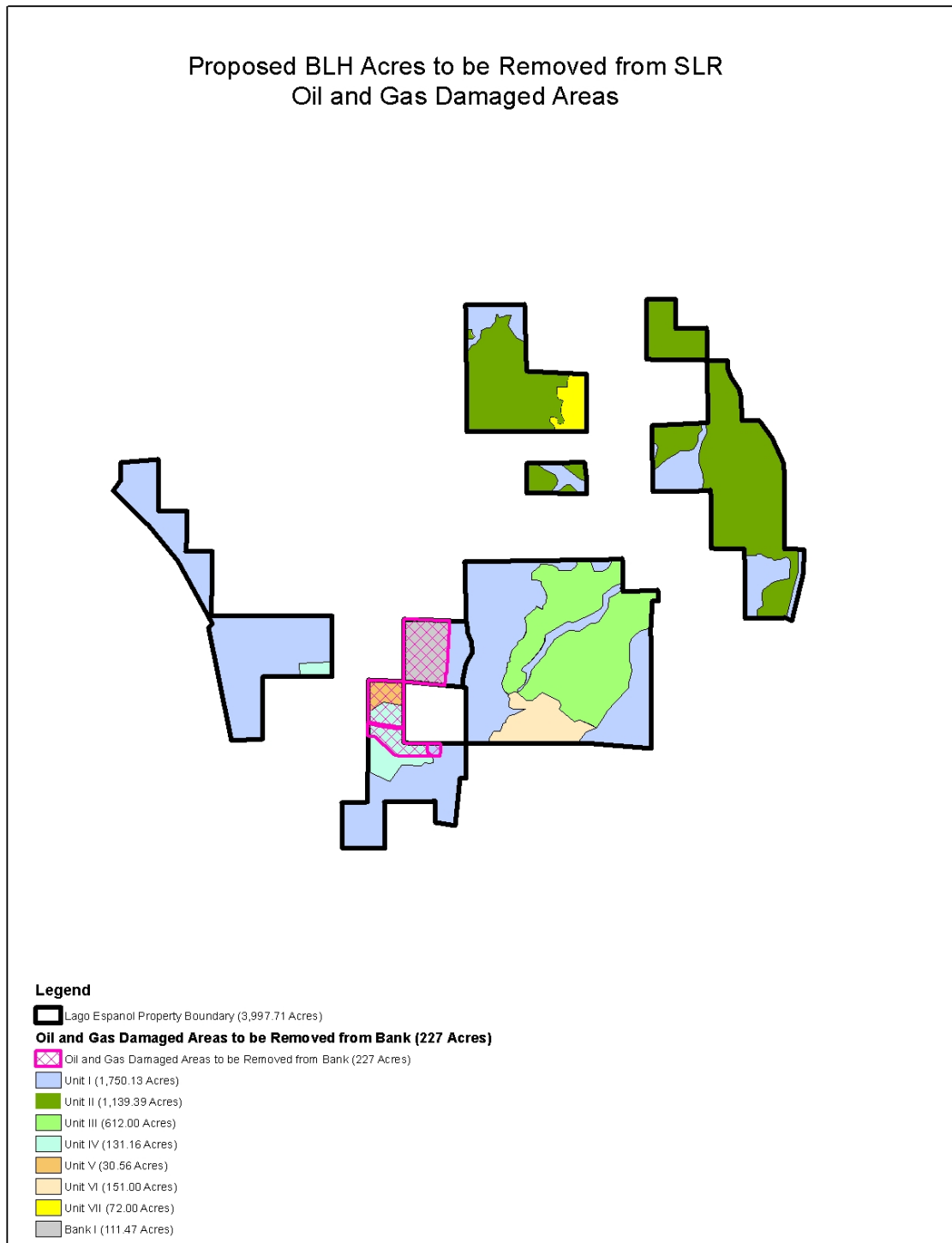
Please find attached SLR's initial request and detailed report justifying the need to transfer the 112 sold credits provided to your office for review on September 19, 2012. This report included the summary of monitoring events documenting the failure of performance standards in Units IV and V, and surface soil and water analysis linking this failure to the continued presence of excessive salts generated during historic oil and gas exploration.

As shown in Table 1, a total of 227 acres within SLR were affected. The 227 acres includes 81.44 acres of Unit IV, 30.56 acres of Unit V, and 111.47 acres of Bank I that have been permanently adversely impacted by residual salt. This proposed transfer includes only 112 acres of Units IV and V that supports bottomland hardwood enhancement credits that were sold as compensatory mitigation for unavoidable impacts to wetlands through the Section 404 permits. The proposed transfer of these 112 sold credits includes 72 acres in Unit VII at a 1:1 ratio, and 80 acres in Unit I at a 2:1 ratio for a total of 152 acres (see Table 1).

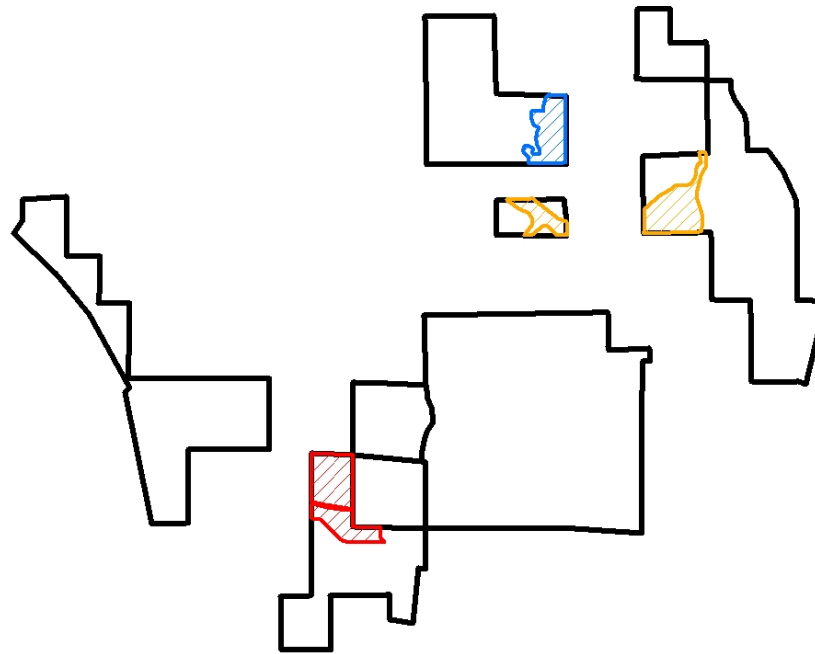
Table 1: Summary of Credits Transferred

Unit	Type	Existing			Proposed Action					
		Total Acres	Sold Acres	Remaining Acres	Proposed Transfer	Transferred Acreage	MBI/WVATransfer Ratio	Acreage with applied ratio	Remaining Acres Unsold	MBI Reference Page
Unit I	BLH Pres	1750.13	1279.59	470.54	Reduce remaining acres by acreage transferred from Unit IV & V at 2X	40.00	2X	80.00	390.54	6 & 7
Unit IV	BLH Enh	131.16	131.16	-	Transfer sold acreage with oil and gas damage to Unit VII & remainder to Unit I	81.44			0.00	8 & 9
Unit V	BLH Enh	30.56	30.56	-	Transfer sold acreage to Unit I	30.56			0.00	9 & 10
Unit VII	BWS Enh	72.00	-	72.00	Reduce remaining acres by acreage transferred from Unit IV	72.00	1.00	72.00	0.00	10
Bank 1	Salt Kill	111.47	-	111.47					0.00	10 & 11

SLR utilized the management potential (WVA) and mitigation ratios defined in its MBI to transfer credits within the bank because they were employed to estimate the unavoidable impacts to wetlands and the appropriate compensatory mitigation for each permit at the time of USACE issuance. The MBI reference pages are also listed in Table 1.



Proposed Transfer of Sold BLH Credits Oil and Gas Damaged Area



Legend

- SLR Property Boundary (3,997.71 Acres)
- Sold BLH Credits to be transferred from Units IV and V (112 Acres)
- BLH Credits to be Debited (112 Acres)**
- Sold BLH Credits to be credited at Unit VII BWE at 1:1 Ratio (72 Acres)
- BLH Credits to be credited at Unit I BLH Preservation at 2:1 Ratio (40 acres = 80 credits)

The entire 227 acres will remain within the conservation servitude as stated within SLR's Mitigation Banking Instrument. In addition to previously sold credits, this transfer will close out Units IV, V, VII and Bank 1 (Unit VIII) and unsold credits remain within Units I, II, III, and VI as shown in Table 1.

SLR appreciates the USACE's consideration and action regarding this issue.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Scott Nesbit', with a long horizontal stroke extending to the right.

Scott Nesbit
Chief Technical Officer

Enclosed: SLR's September 19, 2012 preliminary document to the USACE



SPANISH LAKE RESTORATION, LLC

7478 Highland Rd, Baton Rouge, Louisiana 70808
Phone: 225.928.5333 Fax: 225.246.8319

September 19, 2012

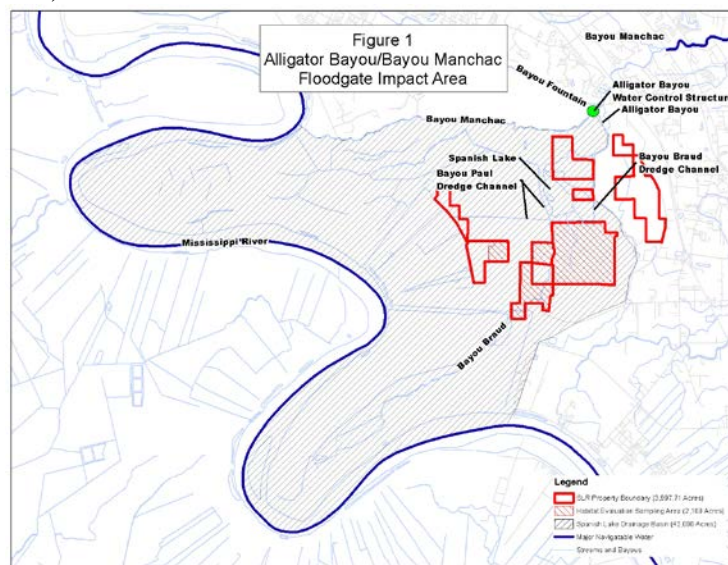
Department of the Army
Corps of Engineers, New Orleans District
Attn: Mr. Brian Breaux
Senior Project Manager
Special Projects
Subject: Spanish Lake Restoration, LLC

Mr. Breaux,

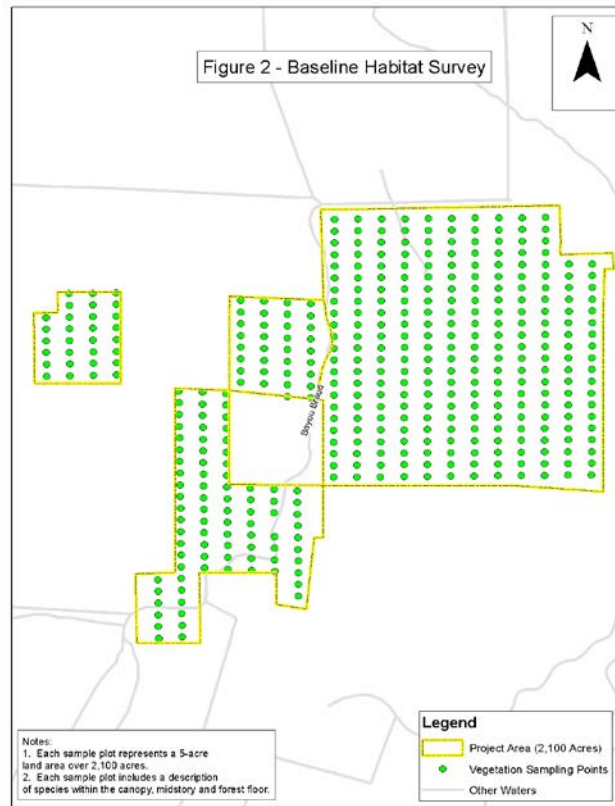
By this letter, Spanish Lake Restoration, LLC (SLR) proposes to initiate modifications to its Mitigation Banking Instrument (MBI) approved in February, 1999, for your review and consideration.

Introduction and Overview

SLR purchased the Lago Español Wetland Mitigation Bank on December 29, 2009, and was authorized as its Sponsor by the US Army Corps of Engineers, New Orleans District (USACE) in March, 2010. Since this time, SLR has benefitted from an upstream hydrologic modification with the opening of the Alligator Bayou/Bayou Manchac Floodgate (floodgate). This operational modification restored much of the natural hydrology within approximately 3,200 acres of the SLR mitigation bank as shown in **Figure 1**. A year after the floodgate was open, the USACE reassessed SLR's habitat value by replacing the Wetlands Value Assessment (WVA) (functional assessment model) with the Modified Charleston Methodology (MCM). This action resulted in a significant reduction (over 50%) of SLR's marketable and available credit value stated in its MBI.



As a means to provide some resolution to these conflicting developments, SLR conducted a detailed habitat assessment from March-September 2011, within approximately 2,100 acres of its land. The purpose of this habitat assessment was to provide accurate field data to be used for the MCM functional assessment model, and to serve as a baseline reference for future bank management following the restoration of the natural hydrologic regime (opening of the floodgate). **Figure 2** shows the 2,100 acre-sampling area within the 3,200 acres of SLR improved by the floodgate opening, and the 417 sample plots established during the habitat assessment. This sample area supports surface elevations between 4' – 9' NGVD.



The findings of the habitat assessment were significant and informative. As stated above, the 2010-2011 habitat assessment was the first opportunity for field personnel (conservation biologists, agronomists, hydrologists) to fully access approximately 2,100 acres of SLR for data collection. This was the result of the opening of the floodgate which replaced the dominant hydrologic regime of permanent flooding to seasonal inundation.

The key findings of the habitat assessment included:

- Improvement of habitat mapping (bottomland hardwood vs. cypress swamp)
- Defined areas suitable for proposed enhancement activities (hydrologic and vegetative)
- Identification of approximately 227 acres of permanently damaged land from historic oil and gas activities.

SLR summarized these findings and presented them to the USACE in October, 2011 for review.

Purpose and Need

The purpose of this document is to propose the removal of the stated management potential (SLR's MBI) within 227 acres of land in SLR that is permanently damaged from historic oil and gas exploration and production from 1941-present as the first step of its proposed MBI Modification (adaptive management plan). Although this impacted acreage can't be restored to its historic condition as forested wetlands, it does support important and diverse wildlife resources, and would remain protected and managed within SLR's conservation servitude.

The need to remove this land from the bank was verified by the 2011 habitat assessment and subsequent soil (surface and subsoil) and shallow groundwater analysis. These data suggest the persistence of elevated salinity in the soil and shallow groundwater within the 227 acres that would prevent the proposed enhancement defined in SLR's original MBI. SLR can provide this soil and groundwater data upon request.

Proposed Transfer of Sold Credits

In order to sustain its obligation regarding compensatory mitigation, SLR proposes to move sold bottomland hardwood credits within 112 acres of the 227 acres in SLR. These 112 acres and corresponding sold enhancement credits are within SLR's Units IV and V, and are proposed to be moved to unsold credits in Units I and VII. This is to be achieved by a transfer of 72 acres at a 1:1 ratio from Units IV and V to Unit VII, and 40 acres at a 2:1 ratio from Units IV and V to Unit I preservation. The use of Unit I preservation at this ratio is stated in SLR's MBI. **Figure 3 and Table 1** show the proposed transfer for your review and consideration.

SLR utilized the management potential (WVA) and mitigation ratios defined in its MBI to transfer credits within the bank because they were employed to estimate the unavoidable impacts to wetlands and the appropriate compensatory mitigation for each permit at the time of USACE issuance.

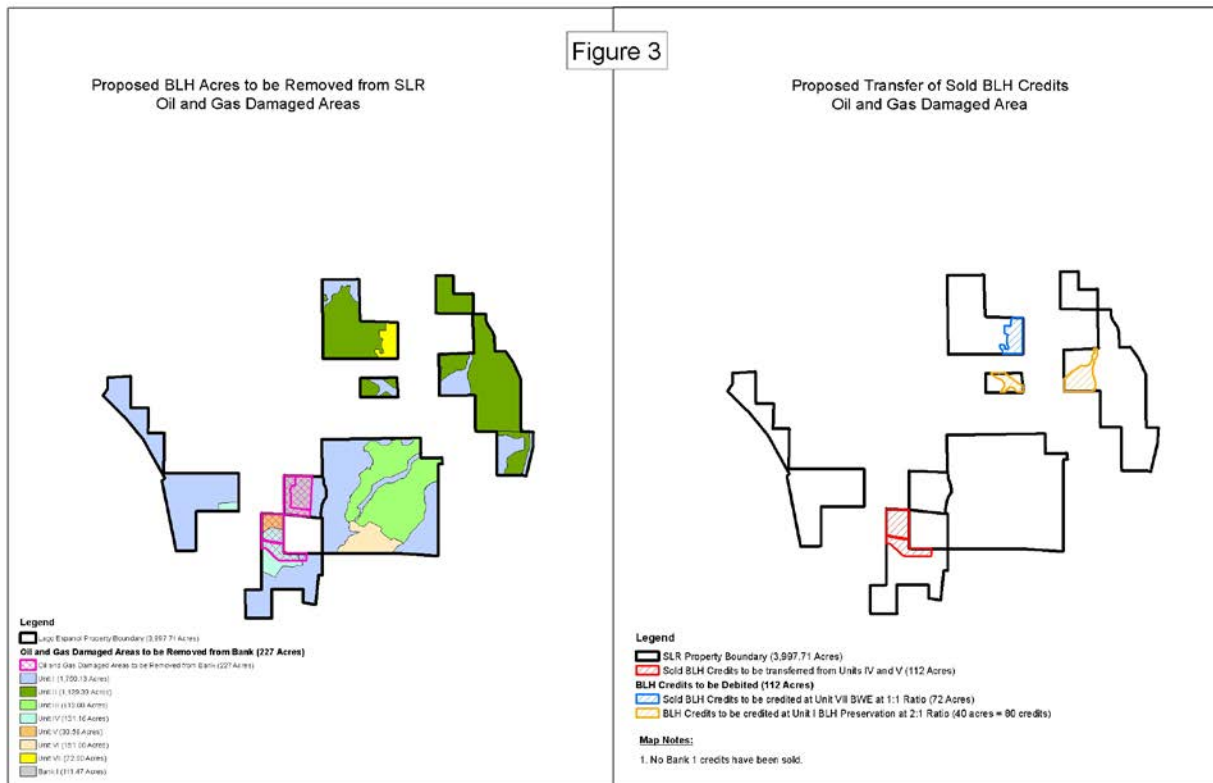


Table 1: SLR Proposed Transfer of Oil and Gas Damaged Credits

Unit	Type	Existing			Proposed Action					
		Total Acres	Sold Acres	Remaining Acres	Proposed Transfer	Transferred Acreage	MBI/WVATransfer Ratio	Acreage with applied ratio	Resulting Remaining Acres	MBI Reference Page
Unit I	BLH Pres	1750.13	1279.59	470.54	Reduce remaining acres by acreage transferred from Unit IV & V at 2X	40.00	2X	80.00	390.54	6 & 7
Unit II	CYP Pres	1139.39	-	1139.39					1139.39	7
Unit III	CYP Enh	612.00	284.35	327.65					612.00	7 & 8
Unit IV	BLH Enh	131.16	131.16	-	Transfer sold acreage with oil and gas damage to Unit VII & remainder to Unit I	81.44			49.72	8 & 9
Unit V	BLH Enh	30.56	30.56	-	Transfer sold acreage to Unit I	30.56			0.00	9 & 10
Unit VI	BWS Enh	151.00	-	151.00					151.00	10
Unit VII	BWS Enh	72.00	-	72.00	Reduce remaining acres by acreage transferred from Unit IV	72.00	1.00	72.00	0.00	10
Bank 1	Salt Kill	111.47	-	111.47						10 & 11
Existing Totals		3997.71	1691.82	2305.90						

Summary

The opening of the Alligator Bayou Floodgate in 2010, the reassessment of SLR's functional value in 2011, and the results of subsequent intensive habitat assessment have required a modification of SLR's MBI. This modification proposes to remove the management potential for 227 acres of permanently damaged oil and gas acreage from SLR. Of the 227 acres, 112 acres of sold enhancement credits is proposed to be transferred to 152 acres of unsold credits within SLR in accordance with its 1999 MBI.

WETLANDS ENFORCEMENT FIELD INSPECTION REPORT FORM

[This form is to be completed in the field then placed into the case file. After that, no changes shall be made to these notes unless clearly noted and dated on the form. A supplemental information form should be used for additional information obtained after the field inspection]

Pre-Inspection Planning Checklist: (make sure you have considered these things):

- | | |
|--|--|
| <input type="checkbox"/> Expected weather/appropriate clothing | <input type="checkbox"/> Vehicle checked, including fuel level |
| <input type="checkbox"/> Check In/Out plan | <input type="checkbox"/> Camera, GPS, shovel |
| <input type="checkbox"/> Hard hat, sunglasses, gloves | <input type="checkbox"/> Water, First Aid Kit |

Date of Inspection 9 / 30 / 2014
Case/File# _____

EPA Inspector(s) Raul Gutierrez
Statute: CWA 404 Other: _____

Others Present (List)

Name	Representing
<u>Brandon Gaspard</u>	<u>USACE</u>
<u>Scott Noland</u>	<u>Spanish Lake Restoration</u>
<u>Andre Bourgeois</u>	<u>SLR</u>
_____	_____
_____	_____

1. TYPE OF ENFORCEMENT INSPECTION

(check one in each column if Compliance Monitoring Action involved)

Initial Site Visit ☒
Follow-up Site Visit _____
ATF Permit Compliance _____
Enforcement Compliance _____
Other _____

Compliance Monitoring Reason:
Citizen complaint _____
Core program _____

2. SITE LOCATION / FACILITY:

Case Name: (discharger/Company/site): Pontchartrain Well #1

Address/City/County/State Sec 7 T9S R2E

Iberville Ph. State LA Zip 70776

Lat.: 30.278660 Long.: -91.041403
(measured in field _____ estimated in office ☒)

Other Location info _____

3. REPORTING (circle one for each item)

Was a potential violation observed? ☒ Y ☐ N

Did you inform the facility of this violation during the inspection? Y ☒ N

Did the facility take any actions towards restoring the violation while you were there? Y ☒ N

Did you discuss general wetlands regulations with a representative of the project? Y ☒ N

Did you discuss project/site specific wetlands regulations with a representative of the project? Y ☒ N

4. DESCRIPTION OF WORK (Describe violation here, also attach sketch on page 3)

rework of existing pad, pad may be below OAWM

Work in Progress? No Date work started? _____

Approximate Amount of Fill _____

5. PHOTOS:

How many photos were taken? 0

Approximate location and perspective of each photo should be noted in field sketch (page 3)

6. BRIEF DESCRIPTION OF WETLANDS

Description of Wetlands Impacted, including dominant plant species

BLA, new gravel brought in, maybe extending pad site footprint

Soils Information: _____

Hydrology: _____

Description of Impacts to wetland functions (current/planned)

7. PARTY DOING WORK: Alta Mesa Services, LP

Address : 15021 Katy Freeway, Ste 400, Houston TX 77094

Phone: _____

Information Provided: _____

Other responsible parties: _____

Address : _____

Phone: _____

Information Provided: _____

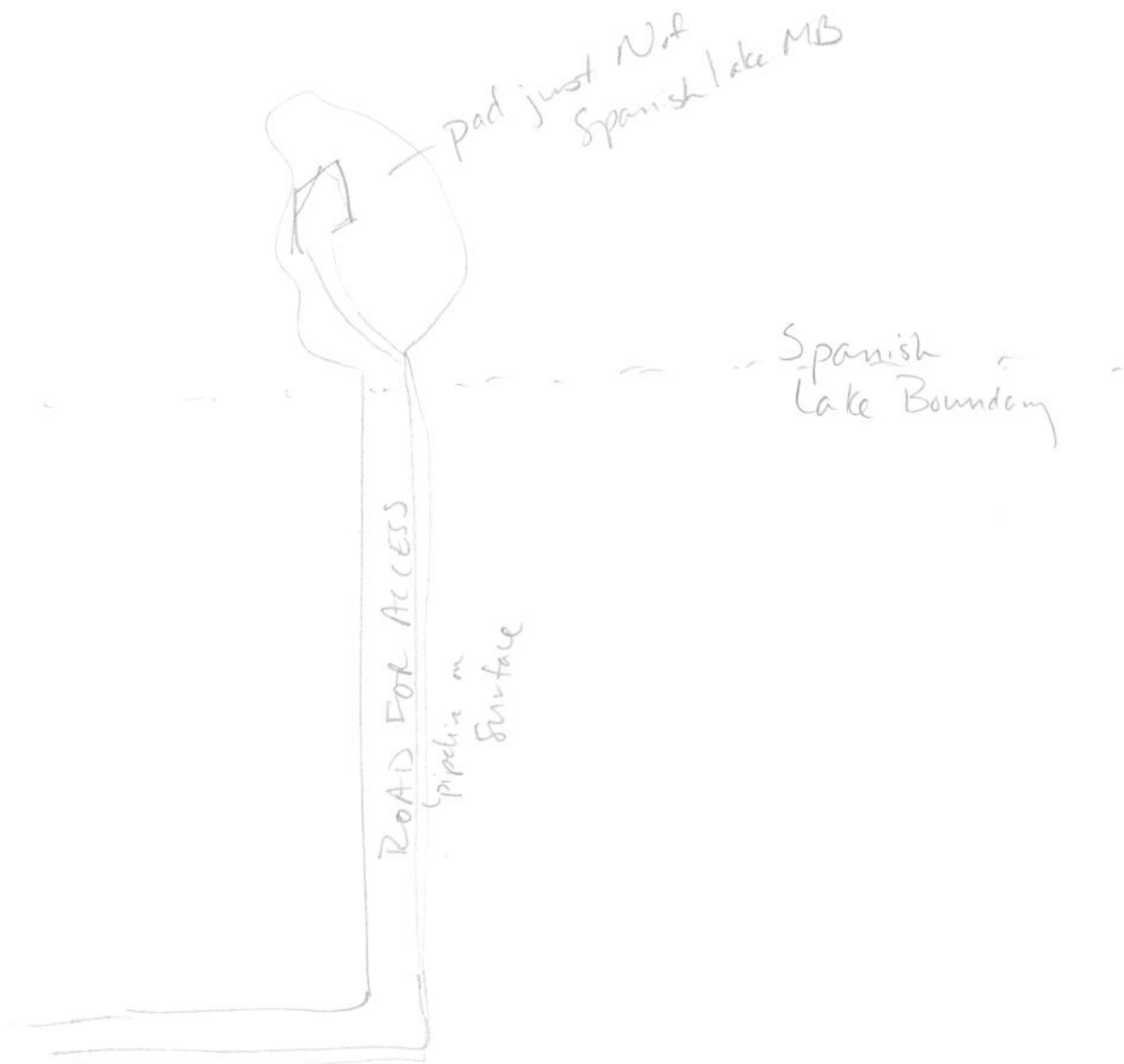


Photo Log: (Note point of photo in field sketch)

Subject/Direction

File Name/number (can be added at office)

1:	_____	_____
2:	_____	_____
3:	_____	_____
4:	_____	_____
5:	_____	_____
6:	_____	_____

Field Notes and sketches prepared by

Raul CA

(sign)

From: Gutierrez, Raul
To: ["Breux, Brian W MVN"](#); [Patti Holland](#); Seth_Bordelon@fws.gov; joshua_marceaux@fws.gov; [Hartman, Richard](#); [Abernathy, Lisa](#); [Williams, Patrick](#); [Ettinger, John](#); [Balkum, Kyle](#); [Davis, Chris](#); [Kelley Templet](#); [Dana Pennington](#); [Holcombe, Jim](#); [Archer, Brenda A MVN](#); [Farabee, Jacqueline R MVN](#); [Pfeffer, Stephen D MVN](#); [Scott Nesbit](#)
Subject: RE: (UNCLASSIFIED)
Date: Monday, May 06, 2013 9:47:39 AM

I'm ok with the transfer. Thanks for coordinating.
rg

-----Original Message-----

From: Breux, Brian W MVN [<mailto:Brian.W.Breux@usace.army.mil>]
Sent: Tuesday, April 30, 2013 11:01 AM
To: Patti Holland; Seth_Bordelon@fws.gov; joshua_marceaux@fws.gov; Hartman, Richard; Abernathy, Lisa ; Williams, Patrick ; Gutierrez, Raul; Ettinger, John; Balkum, Kyle; Davis, Chris; Kelley Templet; Dana Pennington; Holcombe, Jim; Archer, Brenda A MVN; Farabee, Jacqueline R MVN; Pfeffer, Stephen D MVN; Scott Nesbit
Subject: FW: (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

ALL: Please find attached a formal request by Spanish Lake Restoration, LLC to close Spanish Lake Restoration Units 4 & 5 (formerly Lago Espanol). The rationale provided is failure to meet performance standards due to excessive salt concentrations in the soils. An informal request was forwarded to the participating IRT members for consideration by e-mail dated 10/26/12. The responses received from USFWS, EPA, & LDWF are attached. Credits sold from these 2 Units will be debited from remaining open Units of the mitigation bank. The conservation servitude will remain in effect on all portions of the mitigation bank. Please respond at your earliest convenience to formalize closure of this compliance action and make necessary adjustments to the Ribits ledgers.

If you have any questions regarding this matter, please contact me.

Brian W. Breux
CEMVN Regulatory Branch
Special Projects & Policy Team
(504) 862-1938
brian.w.breux@usace.army.mil

-----Original Message-----

From: Scott Nesbit [<mailto:Scott.Nesbit@wetlandsreport.com>]
Sent: Friday, April 26, 2013 9:21 AM
To: Breux, Brian W MVN
Cc: srwallace@cox.net
Subject: FW:

Good Morning Mr. Breux;

Please find attached a pdf of SLR's request to formally transfer credits as we discussed this last Wednesday. A hard copy is in the mail. Please note that I have included the original request for the transfer (September 19, 2012) as an attachment to this formal request.

Please let me know as soon as possible if there is any problem with this request.

Thank you for all of your time and attention regarding this issue over the past year.

Have a good weekend!

Scott Nesbit

President

Natural Resource Professionals, LLC

7478 Highland Rd

Baton Rouge, LA 70808

Office: 225.928.5333

Cell: 225.439.9205

Email: scott.nesbit@wetlandsreport.com

Classification: UNCLASSIFIED

Caveats: NONE